

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RICHARD R. FURSTENAU,	)	
	)	
Plaintiff,	)	No. 07 C 6143
	)	
v.	)	Judge Charles R. Norgle
	)	
CITY OF NAPERVILLE, a municipal	)	Magistrate Judge Geraldine Soat Brown
Corporation; MICHAEL HULL, in his individual	)	
and official capacity; DAVID DIAL, in his	)	
official and individual capacity; MICHAEL	)	
CROSS; in his individual and official capacity;	)	
PETER BURCHARD, in his official and	)	
individual capacity; MARGO L. ELY, in her	)	
individual and official capacity; and JOE	)	
MATCHETT, in his individual an official	)	
capacity,	)	
	)	
Defendants.	)	

**DEFENDANT CITY OF NAPERVILLE'S  
MOTION TO DISMISS  
PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendant, City of Naperville, hereby moves pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure to Dismiss Plaintiff's First Amended Complaint at Law for Failure to state a claim upon which relief can be granted. For the reasons set forth in the accompanying Memorandum of Law in Support of Motion to Dismiss, Plaintiff's First Amended Complaint should be dismissed, with prejudice.

WHEREFORE, Defendant, City of Naperville, respectfully requests this Honorable Court grant its Motion to Dismiss Plaintiff's First Amended Complaint with prejudice and any further relief this Court deems just and proper.

Dated: December 28, 2007

Respectfully submitted,

CITY OF NAPERVILLE,

By: /s/ Richard T. Sikes, Jr.  
One of Its Attorneys

Richard T. Sikes, Jr.  
Terrance J. Sheahan  
FREEBORN & PETERS LLP  
311 South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606  
Telephone: 312/360-6000

**CERTIFICATE OF SERVICE**

I hereby certify that on December 28, 2007, I electronically filed the **Notice of Motion, Defendant's Motion to Dismiss Plaintiff's First Amended Complaint and Memorandum in Support of Same**, with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Shawn M. Collins  
John A. Sopuch, III  
The Collins Law Firm, P.C.  
1770 N. Park Street  
Suite 200  
Naperville, Illinois 60563  
Phone: 630-527-1595  
Fax: 630-527-1193

James G. Sotos  
John J. Timbo  
James G. Sotos & Associates, Ltd.  
550 East Devon  
Suite 150  
Itasca, IL 60143  
Phone: 630-735-3300  
Fax: 630-773-0980

/s/ Richard T. Sikes, Jr.  
Richard T. Sikes, Jr.